

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**MARY PRZYTULA and BRAD BREDE, on
behalf of themselves and all others similarly
situated,**

Plaintiffs,

v.

BED BATH & BEYOND INC.,

Defendant.

No. 17 Civ. 5124

DECLARATION OF HOWARD SHYMAN

I, HOWARD SHYMAN, based on my personal knowledge of the facts stated herein,
testify by Declaration as follows:

1. I am over the age of 18 and am otherwise competent to testify to the matters contained in this Declaration, and if so called, would testify to the facts below.
2. All of the statements in this Declaration are true and accurate to the best of my knowledge.
3. The facts set forth in this Declaration are based on my own personal knowledge of the particular stores in which I have worked and of the stores that I oversee in my Region.
4. Currently, I am a Regional Manager for Bed Bath and Beyond Inc. (“BBB”) and I am in charge of 36 stores in the Northeast Region—33 stores in New York, and 3 stores in New Jersey. They range in volume from mid to very high volume, including some of the highest volume stores in the Company.

5. Typically, a BBB Regional Manager oversees District Managers and Area Managers in the Region. A BBB District Manager has responsibility for a number of stores in a particular geographic area. Reporting to the District Manager are Store Managers, each of whom is responsible for a single store. The Store Managers, in turn, have Assistant Store Managers (“ASMs”) reporting to them. In the stores in the Northeast Region that I oversee, there are between 2 and 7 Assistant Store Managers. Assistant Store Managers supervise Department Supervisors and other hourly associates. Each store has anywhere from 0 to 20 Department Supervisors who report to the Assistant Store Managers. The number of hourly associates also varies greatly from store to store, with the mid volume stores in my Region having approximately 20 associates and the higher volume stores having upwards of 100 associates, and one store in New York City having over 280 associates. My role as a Regional Manager with BBB is unique because 22 of my stores are very high volume, 11 are high volume, and only 3 are mid volume. I do not oversee any low volume stores.

6. There are two types of ASMs at BBB: Operations Managers and Merchandise Assistant Managers. All ASMs at BBB in the Northeast Region are classified as exempt employees.

7. Both Operations and Merchandise Assistant Managers are expected to do primarily exempt work and have a staff of employees working under them. The responsibilities required of an ASM vary as a result of a number of factors.

8. In stores with more than 2 ASMs, there is typically one Operations Manager, and two Merchandise Assistant Managers. One of the Merchandise Assistant Managers is responsible for the hard side of the store (where the cookware and other similar departments are), and the

other Merchandise Assistant Manager is responsible for the soft side of the store (where the bedding and other similar departments are).

9. Each store gets a budgeted number of hours to utilize for scheduling Department Supervisors and hourly associates. The number of hours assigned varies store to store. For example, my mid volume stores typically have 900 of hours per week, whereas my highest volume store in New York City typically has 7500 – 8000 hours per week. The number of hours assigned to each store impacts the responsibilities of the ASMs. An ASM in a store with more hours, where there is an ability to schedule more Department Supervisors and hourly associates, will accordingly manage more Department Supervisors and hourly associates. An ASM in a store with fewer hours available for scheduling Department Supervisors and hourly associates will typically have fewer Department Supervisors and hourly associates to manage.

10. The allocation of hours within the same store also varies depending on the time of year. This too impacts the ASMs' responsibilities within the store. During the holiday season, the staffing needs of the hard side of the store increase and there are typically more hourly associates on the schedule for the hard side Merchandise Assistant Manager to oversee and supervise than the soft side Merchandise Assistant Manager. Conversely, the staffing needs of the soft side of the store increase during the back to school and college season and there are typically more hourly associates on the schedule for the soft side Merchandise Assistant Manager to oversee and supervise than the hard side Merchandise Assistant Manager.

11. During my time at BBB, I have observed many variations in the responsibilities of ASMs depending on the job turnover for the store in which they work. Some of my stores experience a high turnover rate, and the ASMs typically conduct more interviews than an ASM in a store with a low turnover rate who may not need to conduct interviews as often. Similarly, in

certain stores, BBB receives fewer employment applications than in other areas. While ASMs there may conduct fewer interviews, they typically make more hiring decisions because they are more likely to make an offer on the spot rather than risk losing a strong candidate. Conversely, an ASM in a store that receives a high volume of employment applications is less likely to make an offer on the spot, but instead may recommend that the candidate receive a second interview.

12. In addition, ASMs in a store with a high turnover rate typically issue more discipline because the hourly associates are less experienced. On the other hand, I have other stores where the hourly associates are longer term employees, and the ASMs in those stores typically do not issue as much discipline. Similarly, some stores are near colleges where the hourly associates are either working their very first job or are college students who do not remain with the Company long term, and may require higher discipline levels than elsewhere. Thus, there are differences in ASMs' day to day responsibilities depending on the store in which they work.


13. The Store Manager also influences how ASMs discipline employees. Some Store Managers prefer more formality in holding Department Supervisors and hourly associates accountable, whereas other Store Managers may encourage more informal discipline. An ASM who works for a Store Manager that prefers more formal or frequent accountability of his or her employees is likely to, in turn, spend more time on disciplining Department Supervisors and hourly associates than an ASM who works for a Store Manager that prefers a more informal approach to holding his or her staff accountable. In stores where ASMs take a more formal approach to discipline, the ASMs will document more instances of discipline through written "notes to file."

14. The individual personality of the ASMs also affects the frequency and way in which they discipline their Department Supervisors and hourly associates. Some ASMs possess a stronger willingness and/or ability to hold their employees accountable. Other ASMs are not as astute in their supervision of employees and are either less likely to notice a situation that would warrant discipline, or are less willing to issue discipline even when warranted.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20 day of December, 2017.

By: _____


Howard Shyman
Regional Manager
Bed Bath and Beyond Inc.